



RESOURCES FOR THE JUSTICE SYSTEM

BACKGROUND:

The importance of a timely and effective legal system cannot be overemphasized. A well-developed and properly resourced justice system is critical to a healthy democracy. An inadequately resourced system results in significant delays and accessibility challenges.

It is undisputed that, during the past **20 years**, it is taking dramatically longer for matters to be heard in the Alberta court system. The delays that are being experienced clearly show that **“justice delayed is justice denied.”**

The ever-increasing pressure on Alberta’s court system—due to funding deficiencies, budget cuts, and lack of investment in infrastructure and technology—significantly and negatively impacts the efficiency and effectiveness of the justice system in Alberta.

There are three main causes of delays:

1. The federal and provincial governments have not added commensurate resources to keep pace with Alberta’s unprecedented population growth.
2. The Supreme Court of Canada’s decision in *R. v Jordan*, which places limits on acceptable delays for criminal trials, has caused all court systems to prioritize criminal matters at the expense of all other matters.
3. Insufficient funding of Legal Aid Alberta (LAA) has led to a rise in the number of self-represented litigants, who take up significantly more court time and resources than represented litigants.

THE ISSUE:

Alberta’s judicial system must be given sufficient resources to manage its current workload, the power to adapt to its new reality, and the mandate to make the necessary changes to resolve disputes in a timely manner.

The unreasonable length of time it is taking for matters to be resolved by the Alberta Courts means that it is costing Albertans more time and money to resolve their disputes. Unresolved matters prevent the parties involved from moving past their dispute.

The **current delays** are cause for great concern in the area of family law, where prompt resolution is often **critical to individual and family wellbeing**. Currently, an application for an **Emergency Protection Order** can take **two to three months** before a hearing is scheduled. Where a trial is required, parties may be waiting **34 to 188 weeks before their matter is heard**. These delays prevent justice from being done and **indirectly impact other social support systems and medical services (i.e. mental health)**.

A lack of government investment in infrastructure and technological innovation further impedes accessibility to the justice system and adds to delays. The reduction of provincial court locations as a result of budgetary restraints, particularly in rural communities, has further limited access to justice. In some cases, this lack of access to justice can result in justice potentially denied because it is impractical—or impossible—for some Albertans to travel outside their home community to attend court or access court programs.

Similarly, the Civil Claims Duty Counsel program and other programs available to assist Albertans with free legal advice and guidance on the court process are not available or accessible in rural communities.

The Canadian Bar Association (CBA) notes that reforming the Family Justice System, including early resolution and referral, is a main focus within the Court of Queen's Bench strategic plan. The plan also includes the goal of an Alberta Family Court that unifies the current Provincial Family division with the Court of Queen's Bench Family division, and a diversion to non-court services.

Resources will need to be allocated to achieve these goals. These resources include the appointment of more judges, support staff, clerks, and a continued collaboration with the Courts and the Ministry of Justice and Solicitor General.

WHY CBA IS INVOLVED:

The CBA strives to promote and foster an understanding of the key role our justice system plays in society.

An **inadequately resourced system, and the resulting delays**, means Albertans' legal needs will **not be met**. The CBA hopes that by advocating for and **calling attention to deficiencies**, we can ensure all Albertans have **equal and timely access** to the justice system.

The judicial system must adapt to changing realities. Judges are cognizant of this but are faced with an unmanageable workload that greatly impedes their ability to consider changes, let alone implement them, and negates the confidence of Albertans that they are able to see "justice done."

The CBA hopes that by calling attention to these deficiencies and their impact on Albertans, the government will consider assigning more resources and funds to the justice system.

DESIRED OUTCOME:

The justice system needs further investment in infrastructure, technological innovation, judicial complement, and support staff. This investment will dramatically relieve the current unsustainable pressure and allow the Alberta Courts to improve their functioning to be more efficient and effective in the administration of justice in our province.

The CBA is calling for increased funding in the following areas to allow the courts to deliver justice to Albertans:

- Sufficient staffing of clerks, sheriffs, prosecutors, and the judiciary at all levels of court in Alberta, including a proper complement of appropriate support staff, such as judicial assistants and court coordinators to assist the Courts in expediting matters.
- Time and energy allocated by the government to explore new technologies that would enhance and streamline the court system to reduce inefficiencies and delays. This would include considering the use of digital filing of court documents and reconsidering the implementation of the Judicial Information Management System Software.
- Capital investment in court infrastructure and technology innovations, including buildings and more efficient IT systems, which could dramatically improve the functioning of the system.
- A commitment from all stakeholders and an investment by the Government of Alberta into accessibility technologies, such as video-conferencing and other online tools including chat modules to improve access to justice in Alberta's rural communities.

CONSEQUENCES OF AN UNDER-RESOURCED JUSTICE SYSTEM

Justice X serves on the Court of Queen's Bench in Alberta and has been tasked with assigning Justices for trial. The recent decision in *R. v Jordan* has changed the framework for determining whether a criminal trial has been heard in a reasonable period of time, setting ceilings for what would constitute unreasonable delay. Charges may be withdrawn in cases where delays are deemed unreasonable. The deleterious consequences of numerous criminal charges being withdrawn due to delay means that the Justice X has no choice but to prioritize criminal trials to the detriment of commercial and civil matters.

Even with this prioritization, there are not enough resources to allow for each of the criminal trials to proceed within the timeline prescribed by *Jordan*. There is simply not enough support staff and judges to adequately address the growing demands on the Alberta justice system. Lack of adequate funding means that potential technological advances that could also be utilized to address these concerns are not being explored or implemented.

Faced with this lack of resources, Justice X must decide which criminal matters will likely result in dismissal due to delay while creating the lowest risk to public safety by the release of individuals who are charged with serious offences. The Justice must also decide which commercial and civil matters may need to lose their trial dates to accommodate the criminal matters, some of which have been awaiting trial for years and will suffer prejudice in witness availability and financial harm. Without sufficient resources, the Alberta Courts must make decisions that will ultimately cause irreparable harm to individuals, corporations, and the public's faith in the judicial process.